

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 22, 2001 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Emily Stonington (D)
Sen. Ken Toole (D)

Members Excused: Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. Ken Miller (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 190, 3/2/2001
HB 334, 3/2/2001
HB 382, 3/2/2001
HB 589, 3/2/2001

Executive Action: HJR 31 BCAA
HB 190 BC
HB 334 BCAA

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 190

Sponsor: REP. JOHN WITT, HD 89, CARTER

Proponents: Annmarie Robinson, Coordinator, North Central MT
Regional Water Authority
Steve Wade, Dry Prairie Regional Water System
John Tubbs, Dept. of Natural Resources & Conservation
Jane Jelinski, MT Assoc. of Counties

Opponents: None

Informational Testimony: Jim Edgcomb, Director, Treasurer State
Endowment Program., Dept. of Commerce

Opening Statement by Sponsor:

REP. JOHN WITT, HD 89, CARTER. This bill addresses the rural water projects in north central Montana. It will be a tool in which to fund those projects. The Treasurer State Endowment Program(TSEP)Regional Water Fund was established in 1999 and provides the state match for the big water pipeline projects in north central and northeastern Montana. These projects are needed because the area is plagued with poor drinking water. The TSEP Regional Water Fund required the dollar per dollar match of local funds. This bill will allow the 25% of the local match requirement for the TSEP Regional Water Fund, for both big pipeline projects, to be in the form of debt incurred by local governments. When individual systems connect to the regional water system, the system debt continues. In some cases, the debt continues for an additional 20 years if they were financed by the U.S.D.A. Farm & Home Administration program(FHA). With the existing debt for the cost of the new system, many systems will have rates which will exceed the Dept. of Commerce target rate. The target rate will utilize the existing TSEP to determine if each community is paying their fair share before they receive the system. In order to utilize this option, systems must meet the hardship standard established by the Dept. which is 200% above the target rate. This option allows systems to maintain affordable rates. Many systems are currently feeling some of the highest water rates in Montana. North Havre County Water District is at \$135 a month. Hill County Water District is at \$50 a month.

Proponents' Testimony:

Annmarie Robinson, Coordinator, North Central Regional Water Authority. She handed out a Fact Sheet **EXHIBIT(los65a01)**. She gave highlights from the sheet as her testimony. She also handed

out a Regional System Rates chart **EXHIBIT(los65a02)** for information purposes.

Steve Wade, Dry Prairie Regional Water System. The bill makes sense and he agreed with the previous testimony.

John Tubbs, Dept. of Natural Resources & Conservation. The Dept. supports the bill. The bill will help to bring down some of the very high water rates.

Jane Jelinski, Mt. Assoc. of Counties. The Association stands in support of the bill.

Opponents' Testimony: None

Informational Testimony:

Jim Edgcomb, Director, Treasurer State Endowment Program. He offered to answer any questions.

Questions from Committee Members and Responses:

SEN. DUANE GRIMES asked if this approach of allowing debt to constitute the match were used elsewhere. He did not want to set a precedent. **Jim Edgcomb** responded that he couldn't speak for other areas of government, but for his program, TSEP does take that into account to some degree. They look at how much the rate users pay. Any existing debt is added into what they are paying and determining whether or not they are at or above the target rate. In answer to the question, he added that this was not unusual.

SEN. JOHN BOHLINGER queried a reference made to the Dept. of Commerce's target rate. **Jim Edgcomb** responded that the target rate concept had been around for a number of years. It is a threshold that communities are required to get to before the Dept. recommends a grant. The target rate is determined by looking at the median household income of a specific community and multiplying that by the target percentage. If it is water, it is multiplied by 1.4%. If it is a wastewater system, it is multiplied by .8%. If it is both a water and wastewater system, it is 2.2%. That gives the dollar figure.

SEN. BOHLINGER then wanted to know what that meant in dollars to a medium income household. **Mr. Edgcomb** referred him to **(EXHIBIT 2)**. Big Sandy, the top place listed, has a target rate of \$28.19. Under the column "Future Total Rates" and in the third column "Total" it shows \$43.16. That is the total monthly

cost to a typical user. That is well above target rate. They would not be qualified for this particular situation.

SEN. KEN TOOLE inquired what the difference is between fixed and variable costs of water rates. **Annmari Robinson** explained that they include the first 3,000 gallons in each of the target costs. They determine the project cost per 1000 gallons at 71 cents. In column "D", that is how they arrived at \$2.09. The debt retirement in column "E," which everyone is going to share equally, is difficult to figure when looking at the individual costs for each system. Columns "F" and "G" show current rate structure. Fixed rate is the debt service. That is what they have currently and this is anticipating 2003. If it goes beyond, that is what that number is correlated to. Column "H" shows what they are currently charging for the operations and maintenance (O & M). The Dept. anticipates that 25% of their costs will continue after they hookup to the regional water system because they will continue to pump their water, etc. The fixed costs in columns "D," "E," and "F" constitute the fixed cost per community in column "I." The water sales is taken from column "C." Thus those two bring about the total in column "K."

SEN. TOOLE asked what are the debt services going to be concerning water and are the operations and maintenance costs fairly fixed. **Ms. Robinson** replied, as with any water system, the variable costs continues to be the increasing cost of chemicals. The energy cost is quite a variable. Even a postage increase makes a big difference. Water is purchased from the Bureau of Reclamation which is different from Dry Prairie in eastern Montana. They are obtaining their water through the Ft. Peck tribe.

SEN. TOOLE questioned how much is rate tied to usage.

Ms. Robinson replied that 71 cents per 1000 gallons is based on an average use per month. If these systems are using a meter, individual users may see a different cost.

SEN. JIM ELLIOTT wanted to know if the districts had to be 200% above the hardship standard to qualify. **John Tubbs** replied yes.

SEN. ELLIOTT asked if the hardship standard is basically the target rate. **Mr. Tubbs** replied yes. **SEN. ELLIOTT** stated that on the chart, about five districts would qualify such as Sage Creek Colony. **Mr. Tubbs** answered that it is typically the rural customers who have very expensive water.

CHAIRMAN MAHLUM asked if everyone had to have a meter and what if they had their own well but didn't have good drinking water. He said the sponsor could answer in the sponsor's closing.

Closing by Sponsor:

REP. WITT closed. He responded that in his area they have meters as well as orifices in the line that control the amount of flow. One does have the option of purchasing water at the level they want. In some cases, there may be pasture outlets which would be a different fee. He was not sure if all the projects were set up that way, but his was. The little systems can no longer go through that process to meet all the standards, so this bill incorporates everything so that a facility can be set up to help the smaller systems in Montana. In Liberty County alone, about 95% of the people are impacted by what this bill addresses. Each project would add up to approximately \$200 million. There is a great deal of money involved. This would be a big time economic development project.

HEARING ON HB 382

Sponsor: REP. JIM WHITAKER, HD 41, GREAT FALLS

Proponents: Rhonda Carpenter, MT Housing Providers

Rick Linafelter, President, MT Landlords Assoc.

Diane Beck, Missoula County Assoc. of Realtors

Ken Manning, Landlord, Kalispell

Gene Thompson, MT Landlords Assoc., Kalispell

Vern Fischer, Great Falls

Jim McIsaac, Dillon

Harriet Chambers, MT Landlords Assoc., Dillon

Opponents: Alec Hansen, MT League of Cities/Towns

Marcia Youngman, Mayor, City of Bozeman

Terry Eastman, Bozeman

Jim Nugent, City of Missoula

Thomas Harnden, Bozeman

Joel Walsh, Bozeman

Buck Bucholz, Bozeman

Joe Mazurek, City of Great Falls

David Ponder, Montana Public Interest Research Group
(MontPIRG)

Opening Statement by Sponsor:

REP. JIM WHITAKER, HD 41, GREAT FALLS. This bill addresses the need for statewide consistency in the laws regulating landlords and tenants. This bill does not take away a local government's

ability to zone, enforce building codes or collect general business licenses or safety inspection fees. It will, however, offer a statewide solution to some existing conflicts of local government control over small businesses that provide rental housing. This bill was adversely amended on the House floor and he was open to having that amendment removed.

Proponents' Testimony:

Rhonda Carpenter, MT Housing Providers. MT Housing Providers requested this bill because housing providers have had some concerns. There were local governments throughout Montana who have enacted or were considering enacting a license on rental property. Rental property is not a business that one can decide at a moment's notice to quit because of new fees or the rules are changed. Nor is it a business that can be picked up and moved to another location or state. Licensing appeared to be no more than another revenue source for local governments. When landlords complained to their local government about licensing, they were told that if they were unhappy, some regulations could be written for more control.

An attorney drafted some language for this bill that was clear in that local governments could not license rental property owners or write any landlord-tenant laws that would regulate or interfere with the landlord-tenant agreement. She did not want the bill to affect general city business licenses. There are a number of cities in Montana who have a general business license and that included rental property owners. This bill would not affect that. There are some towns in Montana that have a safety inspection license. Once a year the fire department comes and inspects properties that have open or common areas open to the public. That was fine. It was not intended to affect in any way zoning laws, building codes, garbage enforcement, animal laws or any type of criminal activity.

Most people know that city limits are not clearly defined. It would not be fair if a landlord on one side of the street had different landlord-tenant law than a landlord on the other side of the street. There are a number of laws that the legislature makes and they are statewide. No matter where you are, the laws are the same. It makes it easier for the MT Landlords Assoc. to keep their members aware of changes in the law and to keep them educated and up to date. It is also easier for tenant organizations to apprise their members of the law.

Her group did not think it right to have to purchase a license before buying rental property. The Constitution gives all powers to charter local governments that are not expressly forbidden. This bill does not really eat away at those powers. The

Constitution also gives this legislative body the right to take away the powers that need to be taken away or limit them in order to make it right for the citizens of Montana.

There are already 68 different occupations such as salesmen, nurses, morticians, etc. that local governments are expressly forbidden to regulate. This would make number 69.

In the House, she had agreed to some amendments that was suppose to have dissolved any opposition to the bill. The section on licensing was removed. Local governments could have licensing power but they could not control rents nor regulate or write rules. This supposition did not turn out to be correct. Local governments were still in opposition. Therefore, the membership decided that the licensing issue was important to them and would like to have the House amendment removed. She did want the bill to be clear that local governments still had the power to zone, have building codes, regulate on criminal law, etc.

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Rick Linafelter, President, MT Landlords Assoc. His group was in full support of the previous testimony.

Diane Beck, President, Missoula County Assoc. of Realtors. She asked the committee to support the bill in its original form. Missoula currently has a rental licensing requirement and it is part of their business license. About a year ago there were some amendments to that and part of those amendments include licensing single family homes, duplexes and rooms that are rented singly in homes. These amendments affect all property owners. The extra revenue is deemed to be a "cash cow" by many in Missoula. This is unfair to tax homeowners in Missoula in this manner. The Montana Landlord-Tenant Act governs landlords and additional regulations by local governments are not needed.

Ken Manning, Landlord, Kalispell. He asked for HB 382 to be passed in its original form. A friend in Whitefish who owns a mobile home court is already paying for a license.

Jay Thompson, MT Landlords Assoc., Kalispell. He asked for the committee's support of the bill.

Vern Fischer, Owner, Mobile Home Park, Great Falls. He also asked for the committee's support of the bill.

Jim McIsaac, Dillon. He asked for the passage of HB 382 in its original form.

Harriet Chambers, Property Manager, Dillon. She was in support of the bill.

Opponents' Testimony:

Alec Hansen, MT League of Cities/Towns. He was opposed to taking off the House amendments and returning the bill to its original form. The cities and towns see serious problems with the bill. He felt it was broad, confusing and vague. He was in favor of regulation by local governments. In Missoula, they do have a license which costs \$7.50 per rental unit or \$30 per year which ever is the lessor amount. It is a big business license. This bill goes into the powers denied under charter governments. About 15-20 cities in Montana have this form of government. Charter governments are voted by the people. He handed in a copy of a letter from Mayor Mike Kadas from Missoula who is opposed to the bill **EXHIBIT (los65a03)**.

Marcia Youngman, Mayor, Bozeman. She opposed the bill either in the original form or the amended form. Section 2, regarding the ability of local government to work with landlords, is too narrow and limits local government. She felt that they should have control over landlords and their property. They have a tight housing market. Low income people have the hardest time finding a place to live. Two buildings in Bozeman had to be closed down due to unsafe conditions. Last year another building was proposed for demolition. It was the last non-subsidized building in Bozeman. There were 28 apartments. They were given only 30 days notice to vacate. She felt that the local government should have the authority to force landlords to give more notice and help pay extra expenses, etc. They forced the above landlord to give the tenants three months notice and financial assistance as well. This was important to her that if local government felt the need, they could alter landlord-tenant agreements. This bill would not allow that.

She did not want rent control and that was her compromise. She said they did not ever intend to go that direction. Local government needs to work with home builders, non-profits, churches, etc. to build more houses for low income people. But that alone is not enough; they need to have regulatory authority to protect the people. She asked the committee to kill the bill. Business licensing of landlords had come up in Bozeman. It was proposed by a conservative city commissioner and her interest at that time was to address the issue of absentee landlords for the protection of property owners in the neighborhood. It was a quality of life issue. There were many rentals in bad shape. They were not good neighbors. They could not find the landlords

in order to require them to do something about it. They did not act upon that issue at that time.

Terry Eastman, Bozeman. She was one of the tenants who had lived at the Gallatin Apartment complex. She said that she was told she would be given a three month notice to vacate. They were given a 42-day vacate notice three months later. It was difficult to find a place and it was cold outside. It was a hardship on most of them. They were thankful to the city for helping them out. They were opposed to the bill.

Jim Nugent, City Attorney, Missoula. He stood in opposition to the bill. In Missoula, the University does not have enough housing on campus for all the students. About 8000 students rent in Missoula. Rents are skyrocketing. Many houses are becoming investments rather than for families. The Human Rights Commission had told Missoula they can't limit the number of people living in a house. There are good landlords and, of course, not so good landlords. The City Council at the request of neighborhood associations felt they needed to address the issue. He felt this bill would hamper the city to do that. It would erode the power of local government. To what extent was uncertain. He felt the bill would not allow them to control weeds, snow, etc. He asked the legislature to require the University to provide housing for all their students.

Thomas Harnden, Bozeman. He asked the state to let local governments have the power to do what they feel is necessary.

Joel Walsh, Bozeman. He is a good citizen of Montana. He felt that his rights were very important. As a veteran, he believed that Montana should address the issue of homeless veterans. When there is a shortage of housing, it enhances the problems of the homeless. This bill will deny cities the local control they need. Bozeman realizes the disparity between individuals. People should not be forced out of their rented places.

Buck Bucholz, Pony. He is the commander of the VFW in Pony. He was concerned about the homeless vets. He was in agreement with the previous testimony.

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Joe Masurek, City of Great Falls. The bill in its original form was of great concern to the City of Great Falls. Great Falls does have a yearly fee for fire inspection of rental properties. The main concern of Great Falls is an interest group was asking for statewide exemption from any interference by local government. He said the language in the bill would prohibit

cities from exercising any power that applies to or affects landlords when that power is intended to license or regulate their activities beyond what it provided in Title 70, Chapter 24 and 25. That statute governs the relationship between landlords and tenants. The next section (13) states any power that controls or regulates rent for a dwelling unit or alters the rights, remedies, or duties between a landlord and a tenant as provided in Title 70, Chapter 24 and 25. He felt that would prohibit cities from regulating animal control, garbage collection, fire inspections, etc. He did not want the House amendment taken off the bill.

David Ponder, Executive Director, Montana Public Interest Research Group (MontPIRG).

For fifteen years MontPIRG has published a guide to tenant-landlord law and that guide has been distributed widely in the communities. They also provide a toll-free hotline for tenants and landlords alike where they can call and ask questions about the tenant-landlord statutes. They recognize that different communities have very different needs. Some communities have a great deal of affordable housing while other do not. Those needs call for different local responses. There does need to be some consistent statutes but the Tenant-Landlord Act and the Security Deposit Act that are referred to in this bill should serve as the floor and not the ceiling for those protections.

Questions from Committee Members and Responses:

SEN. DON HARGROVE had questions on licensing. What was the rationale behind the licenses, what services are provided, what is the cost and is there a statute that authorizes those licenses. **Jim Nugent** couldn't remember what statute authorized licensing. The idea was to be able to know who the owners were for different properties. They had trouble finding out that information. He felt that in Missoula there were homes that had been turned into rentals that were unsafe. The city would also be able to know how many rental units were in Missoula. Neighborhood associations had requested that some of these issues be addressed by the local government. The City Council had extended the licensing of rentals from tri-plexes and up and also down to the single units.

SEN. HARGROVE inquired if the license came with an inspection. **Mr. Nugent** replied that with zoning that is key. Most inspections are requested by the tenants. They hadn't intended to do on-site inspections and looked at licensing as nominal. With inspections, the fee would have to be increased.

SEN. HARGROVE asked if the Human Rights Commission was in conflict with the city zoning in terms of the number of people in one house. **Mr. Nugent** said that does hamper the city in regulating the number of people in one house. It also affects and conflicts with Montana building codes.

SEN. JIM ELLIOTT spoke of the occupancy factor, in connection with safety, as well as the zoning factor. If the city does not inspect these rental units, how do they know what all those factors are. **Mr. Nugent** said they try to ascertain where the units are through the zoning permits. Red flags can be raised in that manner. Complaints also raise red flags.

SEN. ELLIOTT then maintained that the basic data collected through this license is the owner and location of the rental unit and the zoning area involved. From that, the city can decide on the safety issues. **Mr. Nugent** offered that the city also tries to find out who manages the rental unit/units.

SEN. ELLIOTT stated that the safety and occupancy concerns are really ancillary to licensing. **Mr. Nugent** said they are ancillary in the fact the city does not inspect unless someone requests them to do so.

SEN. ELLIOTT further inquired that if there is a problem, what does the city do. **Mr. Nugent** offered that people are put on notice if they are violating the code. They are asked to correct the violation. They are not allowed to renew their license if they don't. If there is a turnover, the owner is asked not to rent it if the correction has not been made.

SEN. JOHN BOHLINGER wondered why the MT Landlords Assoc. would have objection to some of the language that is currently in present law. He referred to Mayor Kadis' letter which said, "it could be interpreted to include a prohibition against municipalities attempting to regulate such items as sidewalk repair and maintenance, sidewalk snow removal, weed problems, garbage problems, sanitary/sewer regulations, nuisance and noise violations, and zoning, such as off-street parking. **Rhonda Carpenter** replied that the intent of the bill was not to do any of those things. The intent was simply to disallow the cities from telling landlords how many people can live in one rental unit, which is in violation of federal fair housing laws. The Association did not want cities to regulate landlord-tenant law so that it would manipulate the market. It drives low income people to one area of town or out of town. The bill was drafted to exclude the above laws. Landlords are more than willing to follow city regulations concerning all of the above. She was

willing to have an amendment that would clarify the above concerns.

SEN. EMILY STONINGTON asked if the Association had agreed upon the House amendment as a compromise, why are they changing their mind now. **Ms. Carpenter** informed the committee that the Executive Board of the Association understood that by accepting the House amendment there would be no opposition to the bill. After the amendment was offered as a friendly amendment on the House floor, a representative from each local government said, that while the MT League of Cities/Towns is not opposing it, said their city would continue to oppose the bill. One by one, the Class A cities did that. When the Association heard what had happened, they felt betrayed and asked that the licensing issue be put back into the bill.

SEN. STONINGTON queried where the Association stood at this point. Would they accept the bill as it stands or would they rather have the bill tabled. **Ms. Carpenter** responded that they would accept the bill but would prefer not to have to pay a fee for a license. They viewed that solely as a tax because they received nothing for it.

SEN. STONINGTON inquired how this bill would affect the Missoula area. **REP. TOM FACEY, HD 67, MISSOULA** offered that the University students did present a problem for the local citizens on the rental scene.

SEN. DUANE GRIMES asked if the MT League of Cities/Towns would accept the amended bill. **Alec Hansen** did not know if the deal was still on the table. The committee would have to decide that.

CHAIRMAN DALE MAHLUM posed the question of whether the Missoula Realtors were in favor of the original bill or as it now stood. **Diane Beck** stated that her organization represents real estate licensees but they also have property managers. The Western MT Landlords Assoc., at the public hearing, supported the ordinance in Missoula. Her organization could support the bill as amended, but they would have preferred the original bill. The Missoula problem is a University problem. She did not want to jeopardize other cities because of Missoula.

SEN. GRIMES asked if the Mayor of Bozeman wanted the current bill as amended. **Marcia Youngman** responded that if the bill was narrowed down to prohibit rent control that would be fine with them. They didn't want to change the tenant-landlord law.

SEN. GRIMES further questioned that her problem seemed to be the displacement issue. **Ms. Youngman** disagreed with the language

limiting local governments to do anything beyond current state law that would interfere with the relationship between tenants and landlords. Her City Attorney said that would prohibit them, not only from a displacement ordinance, but some of the other things concerning affordable housing issues in Bozeman. They wanted the latitude to address those issues.

SEN. GRIMES offered that it was a volunteer displacement remedy that she had described earlier. **Ms. Youngman** replied that Bozeman had received self-government powers in July and they planned to adopt an ordinance. Until now, it was dependent on the compassion or lack thereof by the landlord.

Closing by Sponsor:

REP. WHITAKER closed. In Great Falls, snow must be removed in 24 hours. Sidewalks are repaired and the landlords are charged for that. Weeds must be removed. Lawns must be cut. These are regulations that pertain to everyone. This bill, even if amended, will not affect the cities' ability to enforce building codes or control zoning. It will not affect their ability to require a business license or to charge for safety inspections. If local governments are allowed to manipulate the landlord-tenant laws or rental prices, it will thrust rental problems outside city limits or into other nearby communities. Landlord-tenant law needs to be statewide. It needs to be fair to the small business people who invest in rental property. The laws should not be different from community to community. Licenses are not needed in order to know who the owner is. Property tax records are available to identify owners.

{Tape : 2; Side : B; Approx. Time Counter : 0}

HEARING ON HB 334

Sponsor: REP. RALPH LENHART, HD 2, GLENDIVE

Proponents: Gloria Paladichuk, City of Glendive and Richland
Economic Development
Ron Alles, Chief Administrative Officer, Lewis &
Clark County
Alec Hansen, MT League of Cities/Towns
Joe Masurek, City of Great Falls
Mark Rehbein, Richland County Commissioner
Sherrel Rhys, Jefferson County
Jane Jelinski, MT Assoc. of Counties

Willard Duffield, Fallon County Commissioner
Mary Allen, Powell County
Mark Nelson, Manager, Lake County Solid Waste
District
SEN. RIC HOLDEN, SD 1, GLENDIVE
Bill Miller, Mayor, Glendive

Opponents: None

Informational Testimony: Anna Miller, Dept. of Natural Resources
and Conservation

Opening Statement by Sponsor:

REP. RALPH LENHART, HD 2, GLENDIVE. The intent of HB 334 is to improve solid waste management systems, more commonly referred to as landfills. Under the Water Pollution Control State Revolving Fund Act(SRF), the landfill projects were included. To accomplish this, on page 1, line 21, he added "under the federal act." On page 2, lines 8-13, (b) (i) and (ii) were taken out. With these changes, landfills across Montana which are operated by local governments, would have access to the low interest monies from the SFR at 4% interest.

Proponents' Testimony:

Gloria Paladichuk, City of Glendive and Richland Economic Development. She gave her testimony and handed in a written copy **EXHIBIT(los65a04)**. She then handed out copies of letters from business people in the Glendive area who supported the bill **EXHIBIT(los65a05)**.

Ron Alles, Chief Administrative Officer, Lewis & Clark County. On behalf of Lewis & Clark County, he supported HB 334. He gave his testimony and handed in a written copy **EXHIBIT(los65a06)**.

Alec Hansen, MT League of Cities/Towns. He supported HB 334. He felt this bill would reduce garbage rates across the state.

Joe Masurek, City of Great Falls. The City of Great Falls strongly supported the bill. The city had looked into the cost of another site and it would cost them about \$500,000 for a permit and another \$550,000 to develop the landfill site. If the city could finance that at 4%, it would be very helpful.

Mark Rehbein, Richland County Commissioner. All the county commissioners stand in support of HB 334. The ability to borrow funds at 4% to provide projects mandated by Federal EPA

regulations would translate into cheaper operating costs. That would mean reduction in user fees or no future fee increases.

Sherrel Rhys, Jefferson County. Her county supported the bill. They are interested in building a municipal solid waste composting facility. This bill would help them tremendously.

Jane Jelinski, MT Assoc. of Counties. They Association supported HB 334.

Willy Duffield, Fallon County Commissioner. They stand in support of HB 334.

Mary Allen, Representing Powell County. Powell County supported the bill.

Mark Nelson, Lake County Solid Waste District Manager. His commissioners asked him to come and represent them. They are supportive of the bill. It would help them very much. They are in the process of building a transfer station which is going to cost between \$1.2 million and \$1.7 million.

SEN. RIC HOLDEN, SD 1, GLENDIVE. Many rural communities are told what and how to do things. Usually, there is never any funding accompanying those mandates. This bill would help those smaller communities a great deal. Some people say to just privatize the facility and that would alleviate the burden on the taxpayer. Private companies usually are not interested in coming to the smaller communities. That is not a viable option. Their system which is run by their local government is the best system for their community.

Bill Miller, Mayor, Glendive. This bill would help the taxpayers and the area as well.

Opponents' Testimony: None

Informational Testimony:

Anna Miller, Department of Natural Resources and Conservation. Her Department handles the SRF. She handed out maps showing revolving fund loans on drinking water, waste water and non-point source agriculture loan-recycled loan funds. Also included were sheets showing loans completed, amounts of loan, interest rate and proposed loans **EXHIBIT (10s65a07)**. Environmental Protection Agency (EPA) has worked with cities in the United States and felt they needed a way to help communities fund those proclamations that are mandated. The EPA has granted to Montana money about \$8 million a year for each of waste water and drinking water. The

state matches those monies. This money is then loaned to communities. The waste water program has been around since 1991. The drinking water program has been around since 1998. In the last year a new program was instituted toward the agricultural community. They make loans to private farmers and ranchers when they have irrigation facilities. These are voluntary programs. They have money available to help most projects and people. There have been no defaults in those programs.

Communities had asked if solid waste management loans could be made available. She answered yes they could. The state law would have to be changed to include solid waste management into the program.

Questions from Committee Members and Responses:

SEN. EMILY STONINGTON stated that another bill, HB 159, is in the process that would conflict with HB 334. She wanted an explanation as to the proper way to go. **Anna Miller** explained that HB 159 was specifically put in because a landfill or composting facility in the sponsor's district wanted to come and use this money. The City of Glendive and others requested they would also like the opportunity. House Bill 334 is for solid waste, landfills and composting which would include HB 159.

SEN. DUANE GRIMES asked if coordinating language should be put into HB 334 and eliminate HB 159. **Anna Miller** responded that both bills could pass and not create a problem.

John Tubbs, Department of Natural Resources & Conservation. He said that HB 159 is just for composting, but HB 334 would open it up for all purposes. Both could pass and would not be in conflict. Coordinating language could be put in to say if this bill passed, HB 159 would not be needed. He was not in favor of coordinating language.

Closing by Sponsor:

REP. LENHART closed.

EXECUTIVE ACTION ON HB 334

Discussion:

Leanne Kurtz explained that technically, if they both passed as they now stand, they could not be codified together. Her suggestion would be to put coordinating language in HB 334 that would say if both bills passed, HB 159 would be void.

Motion/Vote: SEN. HARGROVE moved that HB 334 BE AMENDED
EXHIBIT(los65a08). Motion carried 8-0.

Motion/Vote: SEN. STONINGTON moved that HB 334 BE CONCURRED IN AS
AMENDED. Motion carried 8-0. Sen. Walter McNutt will carry the
bill.

Senators Christiaens, Cobb and Miller were not available to vote.

{Tape : 3; Side : A; Approx. Time Counter : 0}

HEARING ON HB 589

Sponsor: REP. TOM FACEY, HD 67, MISSOULA

Proponents: Jim Nugent, City of Missoula

Opponents: None

Opening Statement by Sponsor:

REP. TOM FACEY, HD 67, MISSOULA. The issues were local regulations of subdivisions. The part that would be amended is Section 76-3-203 pertaining to exemption for certain condominiums. Condominiums constructed on land divided in compliance with this chapter are exempt from the provisions of this if (1) the approval of the original division of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in 76-3-621 are complied with; or (2) the condominium proposal is in conformance with applicable local zoning regulations.

If a person owned a shopping center and after 20 years wanted to turn it into condominiums, he would have to go through a subdivision review as the law states now. **REP. FACEY** did not think that was necessary because the store is there, the parking, the street and all is there. Basically it is a transaction on paper. The law is unclear and would require a subdivision review. The same would be true for residential apartments if the owner wanted to turn the apartments into condominiums. This bill would make it clear that they would not have to go through the subdivision review.

Proponents' Testimony:

Jim Nugent, City Attorney, Missoula. This bill was requested by Missoula. He reiterated the opening statement. There is a

series of attorney general opinions that grapple with condominiums and how to deal with them. In 1993, the attorney general indicated that condominiums or subdivisions were not exempt under 76-3-204. Where there is extensive remodeling going on, this bill would allow conversions of existing buildings to proceed without going through a subdivision review which takes three to four months.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER wondered what the dollar savings would be. **Mr. Nugent** speculated the amount might be several thousand dollars.

SEN. DUANE GRIMES commented that he had done a minor subdivision and he still has one parcel for rental units. If he were to divide those up he would have more than a minor subdivision. Would this bill allow him to skirt the subdivision review process and then have 12 potential units to sell. The current law states that he would have to go through a major rather than a minor subdivision review. **Mr. Nugent** responded there is one Attorney General opinion that says since you had plotted your land prior to the Montana Subdivision Planning Act, this bill would not help you. In Subsection (2), if you had already established that piece of land within the city and it was already being served with services, there would be no point in going through a subdivision review. They discussed several different scenarios.

SEN. KEN TOOLE asked about an old warehouse down on Toole by the railroad tracks. If someone wanted to turn that building into condominiums, would this law apply to that situation. **Mr. Nugent** said according to the Attorney General's opinion, one would have to go through subdivision review because that building had predated the subdivision review law.

SEN. TOOLE asked wouldn't the city want a subdivision review if there were a dramatic change in the use of a building. Some changes could alter the neighborhood drastically. **Mr. Nugent** replied that issue is already addressed in statute. But if one is not zoned, one could not use Subsection (2).

Closing by Sponsor:

REP. FACEY closed.

EXECUTIVE ACTION ON HJR 31

Motion: SEN. HARGROVE moved that HJR 31 BE AMENDED
EXHIBIT(los65a09) .

Discussion:

SEN. HARGROVE explained the amendments. Basically the idea was to include drug and substance abuse.

Vote: Motion carried 6-0.

Motion/Vote: SEN. HARGROVE moved that HJR 31 BE CONCURRED IN AS AMENDED. Motion carried 6-0. Sen. Hargrove will carry the bill.

EXECUTIVE ACTION ON HB 190

Motion/Vote: SEN. GLASER moved that HB 190 BE CONCURRED IN. Motion carried 6-0. Sen. Glaser will carry the bill.

Senators Bohlinger, Cobb, Christiaens, Elliott and Miller were not in the room to vote.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. DALE MAHLUM, Chairman

MARY GAY WELLS, Secretary

DM/MW

EXHIBIT (los65aad)